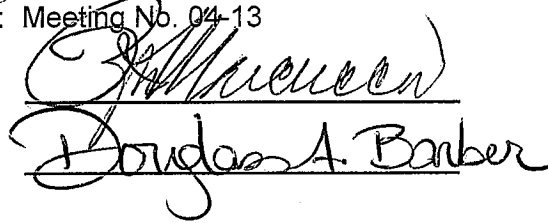


APPROVED: Meeting No. 04-13

ATTEST:



Phyllis Marcuccio
Douglas A. Barber

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND

September 10, 2012

7:00 p.m.

Meeting No. 29-12

Re: Executive Session pursuant to Sections 10-508(a)(3) and 10-508(a)(7) of the State Government Article of the Annotated Code of Maryland to consider the acquisition of real property for a public purpose and matters directly related thereto, and to consult with counsel to obtain legal advice regarding Town Center Redevelopment.

The Mayor and Council met in Executive Session on September 10, 2012, at 6:06 p.m. in the Diamondback Terrapin Conference Room, City Hall, 111 Maryland Avenue, Rockville, Maryland

Councilmember Newton made the motion to convene in Executive Session and it was seconded by Councilmember Hall and unanimously passed.

Present at the Executive Session were Mayor Phyllis Marcuccio, Councilmember John F. Hall, Jr., Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala. Also present were Acting City Manager Jenny Kimball, City Attorney Debra Daniel, City Clerk Doug Barber, Director of Public Works Craig Simoneau, and Director of Community Planning and Development Services (CPDS) Susan Swift.

The topic of discussion was Town Center Redevelopment.

The Mayor and Council adjourned the Executive Session at 7:11 p.m.

PRESENT:

Mayor Phyllis Marcuccio, Councilmember John Hall, Councilmember Tom Moore, Councilmember Bridget Donnell Newton and Councilmember Mark Pierzchala.

STAFF PRESENT:

Acting City Manager Jenny Kimball, City Clerk/Treasurer Doug Barber and City Attorney Debra Daniel.

1. Convene

The Mayor and Council convened in a regular meeting at 7:15 p.m. on Monday, September 10, 2012, in City Hall, 111 Maryland Avenue, Rockville, Maryland.

2. Pledge of Allegiance

Mayor Marcuccio led the Pledge of Allegiance.

3. Agenda Review

City Clerk Barber noted that a hard copy of Item # 12 (Mayor and Council Consideration of City Support for Rockville Housing Enterprises (RHE) Purchase of Fireside Park Apartments) and newly received attachments were at the dais.

4. City Manager's Report

Acting City Manager Kimball welcomed everyone back from recess and gave a special thanks to Cable staff for the changes to the Mayor and Council Chambers.

Mayor Marcuccio acknowledged the passing of Mike Gordon, the City's former delegate in Annapolis and expressed condolences to his family.

5. Appointments/Announcement of Vacancies

Mayor Marcuccio announced the appointment of Norm Hampton to the Compensation Commission until September 1, 2016.

Motion: To appoint Norm Hampton to the Compensation Commission as a member until September 1, 2016.

Moved by Councilmember Newton, seconded by Councilmember Hall and unanimously approved.

Mayor Marcuccio announced the reappointment of Anita Powell to the Historic District Commission until September 1, 2015.

Motion: To reappoint Anita Powell to the Historic District Commission as a member until September 1, 2015.

Moved by Councilmember Moore, seconded by Councilmember Pierzchala and unanimously approved.

Mayor Marcuccio announced the appointment of John Rodgers as Chair of the Retirement Board until September 1, 2013.

Motion: To appoint John Rodgers as the Chair of the Retirement Board until September 1, 2013.

Moved by Councilmember Newton, seconded by Councilmember Pierzchala and unanimously approved.

Mayor Marcuccio announced the reappointment of Edward Duffy to the Rockville Housing Enterprises as a member until September 1, 2015.

Motion: To reappoint Edward Duffy to the Rockville Housing Enterprises Commission as a member until September 1, 2015.

Moved by Councilmember Newton, seconded by Councilmember Pierzchala and unanimously approved.

Mayor Marcuccio announced the reappointment of Maung Tin Hlaing to the Rockville Housing Enterprises Commission as a member until September 1, 2015.

Motion: To reappoint Maung Tin Hlaing to the Rockville Housing Enterprises Commission as a member until September 1, 2015.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved.

Mayor Marcuccio read the vacancies for the following Boards and commissions: two on the Human Rights Commission; one on the Human Services Advisory Commission; one the on Planning Commission; one on the Retirement Board; one on the Sign Review Board; and one on the Traffic and Transportation Commission.

6. Proclamation Declaring September 24, 2012 as Family Day – A Day To Eat Dinner With Your Children

Councilmember Moore read the proclamation.

Motion: To approve a proclamation declaring September 24, 2012 as Family Day – A Day to Eat Dinner With Your Children.

Moved by Councilmember Hall, seconded by Councilmember Newton and unanimously approved.

7. Citizens' Forum

<i>Citizen</i>	<i>Issue</i>
Anne Goodman	Landscaping Technical Guide Document # 7
David Brenner	Police Department harassment and vilifying citizens
Chuck Woolery	Disconnection between nature and human immune systems and mental health
Andrea Jolly, Executive Director of the Rockville Chamber of Commerce	Support of the Rockville Rewards Program
Ruth Hannessian,	Invitation to the Rockville Science Café; announced that Animal Exchange is participating in Rockville Rewards Program; comments on the Landscaping Technical Guide Document # 7

8. Mayor and Council's Response to Citizen's Forum and Announcements

Councilmember Newton	Thanked all who came to speak and noted the intent to talk about Anne Goodman's comments under new business.
Councilmember Hall	Thanked Anne Goodman and Chuck Woolery for their research and comments on the issue. Also thanked Andrea Jolly for her comment on the Rockville Rewards Program.
Councilmember Moore	Thanked Anne Goodman and Chuck Woolery for providing good information and addressing the issue. Also thanked Andrea Jolly for her comments on Rockville Rewards Program.
Mayor Marcuccio	Noted how wonderful it was for Ms. Goodman to take on the task. Encouraged people to get their Rewards Program card.

9. Consent Agenda

- A. Award of contract No. 618-000-11-1 for Office supplies for a Contract Period up to Four Years in the Aggregate amount not to exceed \$200,000.
- B. Authorization to Increase the Requirements Contract for Construction, Repair and Maintenance of Sidewalks, Curbs, Driveway Aprons and Miscellaneous Construction (Concrete Requirements Contract) to add FY13 Funding in the Aggregate Amount Not to Exceed \$900,000.
- C. Award of Contract #101773 for Sodium Hypochlorite for a Contract Period of Up to Three Years in the Aggregate Amount Not to Exceed \$150,000.

Motion: To approve Consent Agenda.

Moved by Councilmember Hall, seconded by Councilmember Moore and approved unanimously.

Councilmember Newton asked what monetary penalty means for Rockville.

Under Item# 9B, Councilmember Newton asked if the City spent \$2 million on concrete requirement in 2012. Director of Public Works Simoneau responded to Item# 9B. Director of Finance Cohen will respond to the Item# 9A question at a later date.

10. Discussion and Instructions on Zoning Text Amendment TXT2012-00232, to Allow Certain Signs not Currently Permitted by Article 18 of the Zoning Ordinance to be Utilized in certain Planned Development (PD) zones; Federal Realty Investment Trust, Applicant

Zoning Administrator Mellander presented the staff report on Text Amendment TXT2012-00232 and stated there are four revisions being requested and all of the proposed revisions are intended to allow signs that currently are prohibited under the sign regulations that have been in effect for decades. Clarification was made on Chapter 4 in the code that states art does not include signs. Discussion was had with Acting Director of Recreation and Parks Henry, with it being confirmed that art and signs can be one or the other, but they cannot be the same thing and have art be a sign. The context and the desire of the discussion was to have better signage in Town Square and on Rockville Pike (Route 355).

Mr. Mellander further stated that the Planning Commission voted 4 to 1 to recommend denial of this request and that staff concurs.

There was some clarification requested and made regarding signage on the building at Rockville Pike (355) and Beale Avenue. Mr. Mellander stated it was not a matter of sign size but

change in policy whereby the City does not allow signs to extend above the roof line, which is the current issue. Further discussion ensued trying to clarify the difference between art and signs.

Councilmember Newton noted that there were two pylon signs at the entrance to Gibbs Street and Maryland Avenue that were intended to be lighted and would act as the Rockville Town Square way finding signs and asked if something of this nature could be done. She stated that if there is more signage needed, it should not be done piecemeal but in a holistic approach. Mr. Mellander stated that the two pylon signs were thought not to be enough of an eye catcher.

Further discussion was made on sign placement, size, and number of signs requested. Councilmember Pierzchala asked for comments and answers to questions raised by other Councilmembers from Federal Realty Investment Trust (FRIT) of which staff were present. Ms. Robin McBride, Vice President, Mid Atlantic Region COO, Federal Realty Investment Trust, addressed the Mayor and Council and stated the option of swapping out signs was open to consideration. She further stated the pylons are lit, but ineffectively, lit and they would consider replacing them. Mayor Marcuccio noted that the pylons had at the base historical data and that is important to the City. Another staff member from FRIT stated a company was being brought in to look at the lighting and only the one pylon on Route 355 would be replaced, a very small skinny pylon in front of Foulger Pratt.

FRIT also stated that a piece of art is being proposed, a sculpture that is just in the design/ concept stage that would identify Rockville Town Square tastefully. Councilmember Newton noted that not enough information was provided to make a decision and the issue should be looked at in totality and not just piecemeal. Robin McBride stated that FRIT is working with Foulger Pratt, Dubick, JBG and Bernado and all have met several times and are aware of the sign. All of the developers in Rockville Town Square are in communication with each other and everyone is on board with the concept.

Mr. Mellander stated that the text amendment proposal is to allow a monument sign on this location that would be okay under the text amendment but cannot call it art. It can be a sign, it can be really sculptural, but it is still a sign. If there is going to be another art piece that is not a sign placed in that same general location, then that may be okay. Ms. McBride stated that there would be an issue with Foulger Pratt because there is only so much area at that corner and no one wants to crowd or junk the corner with a sign and an art piece. Ms. McBride noted that their purpose today was to get the zoning text approved so that the sign portion of it could be approved.

Mr. Mellander clarified that if the Mayor and Council want to approve the text amendment but have review of this installation, the text amendment would have to be amended to give Mayor and Council oversight on that installation. If the text amendment is adopted as it is, it would be a sign review item and would not come back to the Mayor and Council. Mayor Marcuccio noted

that the long term hope was to revise the sign ordinance altogether. Mayor Marcuccio stated that to change the sign ordinance to fit this one item seemed extraordinary.

Mr. Mellander stated that it was staff's position to not approve the text amendment until the review/revision of the sign ordinance has been completed. As it stands now, the language is narrowly drawn and really only applies to the Town Square project. If the Mayor and Council decide to approve the text amendment, there is concern as to whether it sets a precedent for others to come in and ask for the same sort of relief or not.

Councilmember Newton agreed with Mr. Mellander that making partial decisions does not always bode well for the City. She would like to have the conversation with Foulger Pratt as well as FRIT so the City understands they are amenable to moving their piece of art. There are too many unclear items and the recommendation from the Planning Commission and staff to not approve. To move forward outside of that perimeter was not a good idea and more discussion needs to be had.

Councilmember Newton suggested discussions and instructions to staff should be to go back to the drawing board with the parties involved and then come forward to the Mayor and Council with a concrete proposal.

Director of Community Planning and Development Swift discussed the process that Federal Realty went through with the City. Mr. Mellander provided clarification to the process which Federal Realty followed to get to where they are today. He noted that there was not a deadline before the Mayor and Council for an action on the item, even though FRIT would like to move forward with an action.

Councilmember Moore inquired as to how soon the Dawson's Market signs would be installed if the Mayor and Council approved that portion of the text amendment. Robin McBride stated it would be immediate. Councilmember Moore went on to say that he was in favor of approving the Dawson's Market signs because he does want the market to succeed. CPDS Director Swift clarified that installing the Dawson's Market signs would be immediately after a sign permit had been applied for.

Councilmember Moore asked to do a straw poll on the different pieces. Mayor Marcuccio stated FRIT needed some indicator of what is going to happen in two weeks. Councilmember Hall stated that the volume is more than would give him a lot of comfort. Comments he made that came out of the Town Center Master Plan were comments drawn from text created by committees that included both FRIT and Foulger Pratt.

Councilmember Pierzchala is in favor of supporting all the elements. Councilmember Pierzchala stated there is a unique fairness issue involved as well as taxpayer's having poured a great deal of money into it, he is willing to say the text amendment can go ahead and can be a

model for what can happen later. He does not want to let this go until the revision of the sign ordinance. Councilmember Pierzchala recognized that the recommendation of staff and the Planning Commission to decline the text amendment was within their purview but it was up to the Mayor and Council to look at the higher level.

Councilmember Newton thanked FRIT for the tour she was given of Dawson's Market. There is no doubt in her mind that it will be a success because it is a beautiful market and she was looking forward to the opening. Councilmember Newton asked that FRIT please take into consideration that it is Rockville's Town Center not just Town Square.

Mr. Mellander was asked if he got what he needed by Mayor Marcuccio and Mr. Mellander responded he needed a specific straw vote or direction as to what to adopt. Will the City adopt the entire text amendment or pieces of the text amendment? If the monument sign is going to need review, he would need direction on that issue.

Mayor Marcuccio put the first issue of an illuminated sign to extend it above the roof to a straw vote. Councilmembers Moore and Pierzchala were in favor; Mayor Marcuccio, Councilmembers Newton and Hall were against. This item will be brought back to the Mayor and Council as a draft ordinance for review and if the Mayor and Council chose to change it again, they may do so at that time.

Item #2 is to allow one off premise sign up to 35 square feet in sign area and up to 25 feet tall. Mr. Mellander confirmed that this was the Dawson's Market sign which is illuminated. The straw vote was four in favor to include Mayor Marcuccio, Councilmembers Moore, Pierzchala and Hall. Councilmember Newton was opposed.

Item #3 was to allow up to 18 off-premises signs, limited to four square feet in sign area and up to 10 feet in height, to be installed on existing light posts within the original PDP area. The straw vote was four in favor to include Mayor Marcuccio, Councilmember Moore, Councilmember Pierzchala and Councilmember Hall. Councilmember Newton was opposed.

Item #4 was to allow one free-standing off premises monument sign with up to 200 square feet of sign area and not to exceed 40 feet in height, and only allowed on an adjoining property also subject to an approved PDP. The straw vote received one approval from Councilmember Pierzchala and four were opposed to include Mayor Marcuccio and Councilmember Newton, Councilmember Moore, and Councilmember Hall.

Councilmember Moore asked for another straw vote on the same Item #4 that would require it to have final sign approval by the Mayor and Councilmembers at the conceptual design phase. The straw vote was three approvals by Councilmember Moore, Councilmember Pierzchala and Councilmember Hall with two opposing by Mayor Marcuccio and Councilmember Newton.

Mr. Mellander confirmed that staff will come back with a draft ordinance in two weeks.

Note for the Record: Mayor Marcuccio and Councilmembers requested a short break at 9:17 p.m. The meeting resumed at 9:28 p.m.

11. Introduction of an Ordinance to Repeal and Re-Enact with Amendments Chapter 9 of the Rockville City Code, Entitled "Fire Safety Code" so as to Adopt and Incorporate by Reference the State of Maryland Fire Prevention Code with Amendments as the Fire Prevention Code of the City of Rockville

Aaron Smith, Fire Plans Examiner, addressed the Mayor and Council and noted the reason for the amendment to Chapter 9 is to align the City's updating of the Code with the State's requirements. The public's opinion has begun to be gathered in the institution of a Fire Code Advisory Committee. The item was introduced by Councilmember Hall. Staff noted that the red line document would be provided to the Mayor and Council the following week.

Motion: To set a Public Hearing date of Monday, October 8, 2012, to Repeal and Re-Enact with Amendments to Chapter 9 of the Rockville City Code, Entitled "Fire Safety Code".

Motion moved by Councilmember Hall and seconded by Councilmember Moore and unanimously approved.

12. Mayor and Council Consideration of City Support for Rockville Housing Enterprise's (RHE) Purchase of Fireside Park Apartments.

Housing Planner Erin Wilson addressed the Mayor and Council and provided the staff report on the item. Ms. Wilson outlined for the Mayor and Council the process being followed by Rockville Housing Enterprise's (RHE). The Mayor and Council discussed the request from RHE to consider three items related to RHE potential acquisition of Fireside Park Apartments as listed:

Item # 1: Whether the Mayor and Council will serve as the guarantor of the performance of RHE during the source of the loan that RHE has with its lenders.

Item # 2: Whether the Mayor and Council will commit to spending \$1.5 million from the FY 2013 budget as a loan to RHE.

Item # 3: Whether the Mayor and Council will commit approximately \$500,000 of the Housing Opportunities Fund to RHE as a grant or loan.

Ms. Wilson presented background for this item and stated staff is recommending the Mayor and Council considers the request but allow time for RHE to provide additional information and for

the community to offer input. Staff is also recommending that this item be brought back and revisited on October 1, 2012, for a final decision.

On Item #1, Ms. Wilson noted that RHE anticipates the lender will require a guarantor of performance for RHE as long as the loan is in place. As a result, RHE is asking the Mayor and Council to serve as guarantor.

Ms. Wilson explained the proposed risks associated with the City serving as the guarantor and any workload for staff. The financial risk at this point is unknown and additional information would be needed. She explained that staff is working with RHE to better understand the risk.

On Item #3, Ms. Wilson noted that this is a special activities fund and it is known as the Housing Opportunities Fund that was established by the MPDU ordinance. The balance is approximately \$498,000 so the City could contribute the additional \$2K to get to the \$500,000 request from RHE. After reviewing the request, it was established that RHE's request is an appropriate use for the Housing Opportunities Fund money. Staff recommends that a portion of the support be as a loan, not to completely deplete the fund. Staff also recommends that RHE agree to designate a percentage of Fireside Park Apartment units as MPDUs.

Finance Director Cohen addressed the Mayor and Council on Item #2 stating that the City can: find the money within the operating budget; find the money within the CIP; or the money could be spent out of the City's reserves. He further explained that the City's reserve for 2012 was going to be at the lowest level seen in a long period of time.

Ms. Ruth O'Sullivan, Executive Director of RHE, addressed the Mayor and Council and thanked them and staff for all of their hard work put forth in order to get RHE to the point at which they are now. Ms. O'Sullivan recognized the huge hump ahead and the difficulty of the request for the City and noted that this was a golden opportunity for the continuation of affordable housing and will guarantee the economic diversity in the City of Rockville. Ms. O'Sullivan stated that there is an obligation for oversight of RHE by Rockville and this is not asking for anything new. RHE is a public entity and is completely transparent, they are audited frequently, and they are insured and bonded. The monies can be repaid in seven years and RHE would repay the County as well.

Mayor Marcuccio asked if the property had been reassessed this year. Ruth O'Sullivan knew what it was assessed for but not when it was assessed. Mayor Marcuccio noted that property values have dropped and wondered if this was the same for Fireside. Mayor Marcuccio also asked if there were profits and since RHE is non-profit, what happens with that money. Ms. O'Sullivan responded that it would be put back into the property or other RHE low income housing projects.

Cornerstone representatives addressed the Mayor and Council on the financial implications. Mr. Bryan Kim noted that the loan from Citibank for RHE to purchase Fireside is considered a

non-recourse loan, meaning the borrower does not have any personal liability and the asset itself is the collateral for the loan. In the event of default, mismanagement, fraud, etc., this type of loan gives the lenders an opportunity to seize the asset and have the ability to go after the entities providing the non-recourse guarantee to make up for the shortfall. Councilmember Moore inquired as to the third party that could put up the \$1.5 million if the City decided not to and whether that party could make that guarantee. Mr. Kim responded that RHE would have to procure a private equity list per se which would put up the guarantee on the loan. Ms. O'Sullivan noted that if the City does not provide the \$1.5 million or is unable to find it, the County money will not be provided, so RHE would look to a private investor for the funds. Al Gentry, a representative of Cornerstone, noted that if a private equity group was brought in, RHE would likely not have majority ownership. The most critical issue at hand is the preservation of affordable housing.

Councilmember Moore asked if the money could be bonded. He stated it seems like a great opportunity and the money requested is a relatively small amount of money for the City to finance a loan, but the City does not have it. He went on to further inquire with all the tools available, what could the City do to obtain the money. Finance Director Cohen noted that staff would not recommend borrowing money to lend money. There are other funds from Capital Projects, Debt Service Fund, General Fund and the City could look to find the money with the understanding that it is a loan and the City would get the money back. Those funds would need to be appropriated soon in order for it to work for RHE. A budget amendment would need to be done.

Ms. O'Sullivan noted that given the possibility of RHE having to look elsewhere for funding, she asked that the October 1, 2012, deadline be pushed up to September 24, 2012, to give them more time.

Councilmember Hall noted he was more than willing to look at all potential sources to make this happen bearing in mind that the City does have a stressed budget. Mayor Marcuccio mentioned her conversations with Finance Director Cohen and Public Works Director Simoneau about CIP possibilities. She noted there are ways that the City might be able to find the funds in the CIP projects that would not impact the City's reserves. Acting City Manager Kimball cautioned the Mayor that all the resources have been dedicated in the adopted budget to specific things, and there could be implications on services.

Councilmember Newton added she was willing to look at this issue as closely as possible to see if there is a way. She asked for more clarification on staff time needed for this issue. Acting City Manager Kimball responded that staff time for oversight is unknown at this time. More conversations need to be had with RHE and Cornerstone to get a clear understanding of their request to the City and all its implications.

Councilmember Moore questioned taking CIP funds to make the loan and bond \$1.5 million of CIP projects. Finance Director Cohen responded that it could be an appropriate way to do the

loan but noted there had been some reservations from the Mayor and Council to do just that. Mayor Marcuccio still had concerns about the guarantor part of the issue and RHE Director O'Sullivan stated that all those details could be worked out over the next few weeks with City staff and the City Attorney.

Councilmember Moore questioned Finance Director Cohen again about the concerns and whether they are insurmountable or whether they could be worked out. Director Cohen responded that any time risks are evaluated, there are ways to mitigate, but further stated there was no real way to quantify the risks for the Mayor and Council and staff at this time. Cornerstone's Mr. Kim responded that the guarantee only appears in the event of default. There are steps that would kick in before and in the event of default. Mr. Kim outlined those steps and further explained what might happen in the event of default.

Councilmember Pierzchala stated this issue was complicated. He further noted concern about borrowing money to lend money. Councilmember Pierzchala stated the City Attorney has not seen the loan documents, the details from all parties are unknown to tie it all together, the risks could not be quantified, there were lots of things to sort out in a short period of time, and he was unsure if this issue could be completed in the time allotted. Councilmember Pierzchala stated he would not consider loaning the \$1.5 million but that he might consider the bonding option and would like RHE to come back with more information in a couple of weeks.

RHE Director O'Sullivan went over the figures again with the Mayor and Council and what the next steps would to be taken. Acting City Manager Kimball stated that staff will work to get all the materials and information needed to the Mayor and Council in two weeks' time period but more time may be needed. Mayor Marcuccio ended by instructing staff to proceed.

13. Adoption of Resolution to Amend Resolution 14-12 to Approve the Exercise of the Right of First Refusal by Montgomery County to Purchase the Fireside Park Apartments.

City Housing Planner Wilson addressed the Mayor and Council and stated this was a technical correction to Resolution 14-12 passed on August 6, 2012, which is restating that the City authorizes the County to exercise the right of first refusal. The language in the prior resolution was incorrect.

Motion: To adopt a resolution to amend Resolution 14-12 to approve the exercise of the Right of First Refusal by Montgomery County to purchase the Fireside Park Apartments.

Motion moved by Councilmember Newton, seconded by Councilmember Hall and unanimously approved.

14. Discussion of Fall 2012 Budget Worksessions

Councilmember Moore noted the items reflect well on past discussions and puts the Financial Advisory Board creation item on appropriately and then distributes the rest of budget worksessions discussions through the end of the year.

Budget and Finance Manager Webster responded that there would be an overview of the FY14 budget. The first official budget review for the FY14 budget would be provided to the Mayor and Council on October 8, 2012, and December 3, 2012, meetings.

15. Review and Comment Regarding Mayor and Council Action Report

Councilmember Newton inquired as to how the public gets the information in The Week That Was. Acting City Manager Kimball responded that the public does not get this information.

16. Review and Comment Regarding Future Agendas

Acting City Manager Kimball commented that some adjustments would have to be made to the September 24, 2012, agenda to make space to bring the RHE item back. Councilmember Hall asked that the materials for RHE and the Ethics Ordinance be made available to the public as soon as possible. City Attorney Daniel responded that there is no new information on the Ethics Ordinance and it is available on the July 30, 2012 agenda for the public to view. Councilmember Moore asked if the Ethics Ordinance materials could be highlighted and placed on the City's home page.

17. Mayor and Council Liaisons to Boards and Commissions Report

Mayor Marcuccio attended the Maryland Municipal League (MML) Strategic Planning Session trying to set goals and strategies for the organization. Councilmember Newton attended two meetings of the MML Legislative Committee to date working on priorities for 2013 and announced there might be a Task Force created to tackle the Ethics Code by Senator Raskin. Mayor Marcuccio announced she will be attending the Council of Government (COG) Board meeting on September 12, 2012, and that COG is scheduled to give a briefing on October 1, 2012, to the Mayor and Council. Councilmember Newton noted the Concert Under the Stars on September 11, 2012, at the Senior Center and on September 18, 2012, the Town Center Action Team would be holding their meeting at City Hall.

18. Old/New Business

Mayor Marcuccio reported that Town Center Phase II, the drawings and materials received were sent out to all of the Association presidents with a request to review carefully and forward any suggestions, ideas, or comments to Acting City Manager Kimball.

Mayor Marcuccio mentioned the retreat and the proposed dates that would only involve the Mayor and Councilmembers, no one else. Councilmember Pierzchala would like, if this were to happen, to include the new City Manager and could see some benefit from that scenario. Councilmember Moore thanked the Mayor for thinking about how they work together but was also surprised about this idea being proposed as he thought the Mayor and Council worked well together.

Mayor Marcuccio thought that waiting for the new City Manager to come on board was a fine idea and continued that the retreat would be a healthy thing to do. Mayor Marcuccio agreed to wait until the new City Manager was on board at which time the matter would be revisited.

Councilmember Moore mentioned the Technical Guide on historical homes for landscaping and that staff have started conversations. Councilmember Moore would like to give direction to the City Manager to move in that direction to revise the standards to make sure that native trees make the preferred vegetation list and reflects the trees that are wanted in the City.

Councilmember Newton wanted to include Anne Goodman who offered to help and include any other person who would like to help. Councilmember Pierzchala stated the list came out of the historical area of the City. That group or another group should be part of the review. The invasive species, the ones that really take over, should be scratched from the list. What is added would be the biggest problem.

Councilmember Newton brought up Phase II and that the Town Center Action Team will be starting up again on September 18th and will be discussing this issue. Councilmember Newton further stated she was not comfortable leaving a decision such as Town Center in the hands of a staff person. This is a huge issue and it needs to come to the Mayor and Council and handled in a comprehensive manner. Mayor Marcuccio inquired if Councilmember Newton wanted the entire Town Center identified and designed or how does the City go about it as the City does not own the property. Councilmember Newton stated that not owning the property should not mean the City could not play a major role.

Councilmember Pierzchala noted his support with what was being planned as it is within the zoning ordinance. He went on to say that the City does not have much leverage nor the money to put into it or the property. The City cannot predict what Phase II will look like but the zoning ordinance has incredible design standards, has open space standards, etc. that have already been well thought out.

Mayor Marcuccio gave FRIT a lot of credit for the success of Town Square. The Mayor would like to have another institution in Phase II such as possibly moving City Hall and swapping properties which would be a way to anchor the properties. Councilmember Pierzchala would like to get away from the terminology "Phase II" because there is no phasing.

Councilmember Newton noted that it has been called Phase II as long as there has been a group called Imagine Rockville. As to the concern about owning property, Councilmember Newton noted that the City does not own anything on Rockville Pike, yet there is going to be the 24th worksession of the Planning Commission on the Rockville Pike Plan and would bet that we have spent a lot of money on staff time planning for the Rockville Pike Plan. It does not matter what it is called. The Mayor and Council were elected to have a vision and that is what the Mayor and Council should be doing. Councilmember Pierzchala went on to state that here is where the City lets the private sector take over within the City's laws, procedures and vision, let them go to work and get Phase II active.

Mayor Marcuccio suggested hearing from others on what their plans are for the site. Councilmember Hall thanked Councilmember Newton on her kind words about the previous Mayor and Council's work on Phase I and bringing it to fruition. Councilmember Hall confirmed with Councilmember Pierzchala that he was not looking to make changes to the zoning ordinance. Councilmember Hall would like to see collaboration among the property owners and the community stakeholders to define with greater articulation the vision of what the City wants to see in Phase II. He would like property owners to consider what is possible under the zoning ordinance not merely what is permitted so there is no public scrutiny.

Councilmember Moore asked JBG at a meeting, "If the handcuffs were off, what could you do?" JBG said the small parcel being developed has the possibility of swapping out the offices on top for residential. It will be a small building with one floor retail. It is the most economic return on JBG's investment. Councilmember Moore went on to state that whoever is building is going to do what they think they can make the most money on. He continued to say that JBG is building mixed use and all is within the City's process and comprehensive process. Councilmember Moore instructed staff to set up meetings with Cornerstone or KSI and the Mayor and Council.

Councilmember Pierzchala stated this issue could go on forever. He went on to note that part of the idea of Phase I was to kick start development in overall Town Center which did occur with Phase II north of Beall Avenue. Councilmember Pierzchala also noted that he has not seen opposition to what is being proposed. He went on to state that the best thing this body can do is to let the application go through and then the Mayor and Council would have a conversation to discuss the future plan for the area.

The Mayor gave each member one more minute to speak.

Motion: To direct staff to set up meetings with KSI for member of the Mayor and Council.

Moved by Councilmember Newton, seconded by Councilmember Hall and unanimously approved.

Motion: To direct staff to look into the feasibility and legality of a text amendment that would give approving authority to the members of the Mayor and Council for all of Town Center.

Moved by Councilmember Newton, seconded by Councilmember Hall and approved by Councilmember Moore, Councilmember Newton and Councilmember Hall and Mayor Marcuccio. Councilmember Pierzchala opposed.

19. Adjournment

There being no further business, the meeting adjourned at 12:23 a.m.

Motion: To adjourn.

Moved by Councilmember Pierzchala, seconded by Councilmember Hall and unanimously approved.